

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

United States of America,

Plaintiff,

v.

Katherine Peterson,

Defendant.

Criminal No. 22-621 (MAS)

Hon. Michael A. Shipp

**THE UNITED STATES OF AMERICA'S RESPONSE TO DEFENDANT'S
MOTION IN LIMINE (ECF # 28)**

On the eve of trial, Defendant Katherine Peterson filed a motion attempting to limit HHS-OIG SA Michael Pemberton's testimony due to a concern that the Government may attempt to elicit improper lay opinion testimony from Special Agent Pemberton. To support its motion, the defense cites isolated, context-less passages of testimony from Special Agent Pemberton's testimony in the *United States v. Steven King*, No. 19-20652 (E.D. Mich.), which have been in Defendant's possession since July 6, 2023.

Defendant's motion is speculative, premature, and misleading. Defendant's citation to isolated portions of the *King* transcript does not establish that Special Agent Pemberton exceeded the bounds of the foundation laid for that testimony during the *King* trial. The Government is aware of its obligation to lay a proper foundation for each question it asks Special Agent Pemberton, who is an experienced U.S. Department of Health and Human Services Special

Agent, and it intends to follow its obligations in this regard. Moreover, Defendant's motion does not account for the possibility that the foundation for Special Agent Pemberton's testimony may account for information properly obtained through business records, *see* Fed. R. Evid. 803(6), and/or co-conspirator statements, *see* Fed. R. Evid. 801(d)(2)(E). In any event, Defendant will have ample opportunity to assess Special Agent Pemberton's testimony as it comes in, inquire further on cross examination, and object if warranted.

The Government therefore respectfully requests that the Court deny Defendant's motion, without prejudice to her right to object to specific questions, as warranted, during trial.

Respectfully Submitted,

s/Shankar Ramamurthy
SHANKAR RAMAMURTHY
Trial Attorney
United States Department of Justice
Criminal Division, Fraud Section
1400 New York Avenue, N.W.
Washington, D.C. 20005
(202) 924-5368
Shankar.Ramamurthy@usdoj.gov

Dated: June 23, 2024

CERTIFICATE OF SERVICE

I certify that, on June 23, 2024, I electronically filed the foregoing document with the Clerk of the Court using the ECF system, which will send notification of such filing to counsel for Defendants.

s/ Shankar Ramamurthy
SHANKAR RAMAMURTHY
Trial Attorney
United States Department of Justice
Criminal Division, Fraud Section
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Washington, D.C. 20005
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